

AMENDED IN SENATE JUNE 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1423

Introduced by ~~Committee on Revenue and Taxation (Assembly Members Perea (Chair), Beall, Charles Calderon, Cedillo, Fuentes, and Gordon)~~ Assembly Member Perea

March 22, 2011

An act to amend Sections ~~6353, 6356.5, 6356.6, and 6358.5~~ of, 17088, 17145, 18155, 24427, 24870, 24871, and 24990.5 of, and to add Sections 17280.1, 17322.1, 24452.1, and 24871.1 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1423, as amended, ~~Committee on Revenue and Taxation Perea. Sales and use taxes: exemptions. Income taxes: federal conformity: Regulated Investment Company Modernization Act of 2010.~~

The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal income tax laws, provide for particular treatment of regulated investment companies, as specified, including particular treatment regarding capital loss carryovers, income and asset tests, dividend designation and allocation rules, the determination of earnings and profits, the passthrough of exempt-interest dividends and foreign tax credits, spillover dividends, return of capital distribution, distributions in redemption of stock, preferential dividends, deferral of late-year losses, holding period requirements, and sales load basis.

This bill would, under both laws, provide additional conformity with federal income tax laws by adopting specified provisions of the Regulated Investment Company Modernization Act of 2010 relating to

regulated investment companies, as specified, including the imposition of a tax upon those companies that fail the above-mentioned asset test.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing laws impose a sales tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Existing law provides various exemptions from the taxes imposed by those laws, including partial exemptions for the sale of, or the storage, use, or other consumption of, liquified petroleum gas, farm equipment and machinery, timber harvesting equipment and machinery, and racehorse breeding stock, when purchased for use for specified activities by a qualified person, as defined. Existing law provides that those exemptions became effective September 1, 2001, unless the State Board of Equalization determined that implementation by that date was not feasible, in which case the board was required to report to the Legislature regarding the reason for delayed implementation and to implement the exemption no later than October 1, 2001. The State Board of Equalization adopted regulations implementing these exemptions, which were operative September 1, 2001.~~

~~This bill would delete the provisions relating to an authorization for a delayed implementation in 2001 of these exemptions.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 17088 of the Revenue and Taxation Code*
- 2 *is amended to read:*
- 3 17088. (a) (1) Subchapter M of Chapter 1 of Subtitle A of the
- 4 Internal Revenue Code, relating to regulated investment ~~companies,~~
- 5 ~~companies and~~ real estate investment trusts, ~~real estate mortgage~~
- 6 ~~investment conduits, and financial asset securitization investment~~
- 7 ~~trusts,~~ shall apply, except as otherwise provided.
- 8 (2) *Part 1 of Subchapter M of Chapter 1 of Subtitle A of the*
- 9 *Internal Revenue Code, relating to regulated investment*
- 10 ~~companies, as amended by the Regulated Investment Company~~

1 *Modernization Act of 2010 (Public Law 111-325), shall apply,*
2 *except as otherwise provided.*

3 (b) ~~Section 17145, relating to exempt interest dividends,~~ shall
4 apply in lieu of Section 852(b)(5) of the Internal Revenue Code,
5 *relating to exempt-interest dividends.*

6 (c) (1) Section 852(b)(3)(D) of the Internal Revenue Code,
7 relating to treatment by shareholders of undistributed capital gains,
8 shall not apply.

9 (2) *Section 852(g)(1)(A) of the Internal Revenue Code is*
10 *modified by substituting the phrase “subdivision (a) of Section*
11 *17145” for the phrase “the first sentence of subsection (b)(5)”*
12 *contained therein.*

13 (d) (1) *Except as provided in paragraph (2), the amendments*
14 *made to this section by the act adding this paragraph shall apply*
15 *to taxable years beginning on or after December 23, 2010.*

16 (2) (A) *Section 851 of the Internal Revenue Code, relating to*
17 *definition of regulated investment company, as amended by Section*
18 *201 of the Regulated Investment Company Modernization Act of*
19 *2010 (Public Law 111-325), and Section 852(b)(2)(G) of the*
20 *Internal Revenue Code, as amended by Section 201 of the*
21 *Regulated Investment Company Modernization Act of 2010 (Public*
22 *Law 111-325) shall apply to taxable years with respect to which*
23 *the due date (determined with regard to any extensions) of the*
24 *return of tax for such taxable year is on or after December 23,*
25 *2010.*

26 (B) *Section 852(b)(4) of the Internal Revenue Code, relating to*
27 *loss on sale or exchange of stock held six months or less, as*
28 *amended by Section 309 of the Regulated Investment Company*
29 *Modernization Act of 2010 (Public Law 111-325), shall apply to*
30 *losses incurred on shares of stock for which the taxpayer’s holding*
31 *period begins on or after December 23, 2010.*

32 (C) *Section 852(f)(1)(C) of the Internal Revenue Code, as*
33 *amended by Section 502 of the Regulated Investment Company*
34 *Modernization Act of 2010 (Public Law 111-325), shall apply to*
35 *charges incurred in taxable years beginning on or after December*
36 *23, 2010.*

37 (D) *Section 855(a) of the Internal Revenue Code, relating to*
38 *the general rule, as amended by Section 304 of the Regulated*
39 *Investment Company Modernization Act of 2010 (Public Law*

1 111-325), shall apply to distributions in taxable years beginning
2 on or after December 23, 2010.

3 SEC. 2. Section 17145 of the Revenue and Taxation Code is
4 amended to read:

5 17145. (a) A ~~management company~~ regulated investment
6 company, as defined in Section 851 of the Internal Revenue Code,
7 relating to definition of regulated investment company, or series
8 thereof, is qualified to pay exempt-interest dividends to its
9 shareholders if, at the close of each quarter of its taxable year, at
10 least 50 percent of the value of its total assets consists of
11 obligations which, when held by an individual, the interest
12 therefrom is exempt from taxation by this state.

13 (b) For purposes of this section:

14 (1) "Aggregate reported amount" means the aggregate amount
15 of dividends reported by the company under paragraph (4) as
16 exempt-interest dividends for the taxable year (including
17 exempt-interest dividends paid after the close of the taxable year
18 described in Section 855 of the Internal Revenue Code).

19 (2) "Excess reported amount" means the excess of the aggregate
20 reported amount over the exempt interest of the company for the
21 taxable year.

22 (3) "Exempt interest" means, with respect to any regulated
23 investment company, the excess of the amount of interest received
24 by it during its taxable year on obligations, interest on which, if
25 held by an individual, is exempt from taxation by this state, over
26 the amounts that, if it were treated as an individual, would be
27 disallowed as deductions under Section 17280 of this part or
28 Section 171(a)(2) of the Internal Revenue Code.

29 (1) ~~"Exempt-interest~~

30 (4) (A) Except as provided in subparagraph (B),
31 "exempt-interest dividend" means any dividend or part thereof
32 (other than a capital gain dividend) paid by a ~~management~~
33 regulated investment company or series thereof ~~in an amount not~~
34 ~~exceeding the interest received by it during its taxable year on~~
35 ~~obligations that, when held by an individual, the interest therefrom~~
36 ~~is exempt from taxation by this state, and designated by it as an~~
37 ~~exempt-interest dividend in a written notice mailed to its~~
38 ~~shareholders not later than 60 days after the close of its taxable~~
39 ~~year. If the aggregate amount so designated with respect to a~~
40 ~~taxable year of the company (including exempt-interest dividends~~

1 paid after the close of the taxable year as described in Section 855
2 of the Internal Revenue Code) is greater than the excess of: *and*
3 *reported by the company as an exempt-interest dividend in written*
4 *statements furnished to its shareholders.*

5 (A) The amount of interest received by it during its taxable year
6 on obligations, interest on which, if held by an individual, is exempt
7 from taxation by this state, over

8 (B) The amounts that, if it were treated as an individual, would
9 be disallowed as deductions under Section 17280 of this part or
10 Section 171(a)(2) of the Internal Revenue Code, the portion of that
11 distribution that shall constitute an exempt-interest dividend shall
12 be only that proportion of the amount so designated as the amount
13 of that excess for that taxable year bears to the amount so
14 designated.

15 (2) “Management company” means a regulated investment
16 company as defined by Section 851 of the Internal Revenue Code.

17 (B) *If the aggregate reported amount with respect to the*
18 *company for any taxable year exceeds the exempt interest of the*
19 *company for such taxable year, an exempt-interest dividend is the*
20 *excess of the reported exempt-interest dividend amount over the*
21 *excess reported amount which is allocable to such reported*
22 *exempt-interest dividend amount.*

23 (C) (i) *Except as provided in clause (ii), the excess reported*
24 *amount (if any) which is allocable to the reported exempt-interest*
25 *dividend amount is that portion of the excess reported amount*
26 *which bears the same ratio to the excess reported amount as the*
27 *reported exempt-interest dividend amount bears to the aggregate*
28 *reported amount.*

29 (ii) *In the case of a taxable year which does not begin and end*
30 *in the same calendar year, if the post-December reported amount*
31 *equals or exceeds the excess reported amount for such taxable*
32 *year, clause (i) shall be applied by substituting “post-December*
33 *reported amount” for “aggregate reported amount” and no excess*
34 *reported amount shall be allocated to any dividend paid on or*
35 *before December 31 of such taxable year.*

36 (5) “Post-December reported amount” means the aggregate
37 reported amount determined by taking into account only dividends
38 paid after December 31 of the taxable year.

1 (6) “Reported exempt-interest dividend amount” means the
2 amount reported to its shareholders under paragraph (4) as an
3 exempt-interest dividend.

4 ~~(3)~~

5 (7) “Series” means a segregated portfolio of assets, the beneficial
6 interest in which is owned by the holders of a class or series of
7 stock of the ~~management~~ regulated investment company that is
8 preferred over all other classes or series with respect to that
9 portfolio of assets.

10 ~~(4)~~

11 (8) “Value” means, with respect to securities (other than those
12 of majority-owned subsidiaries) for which market quotations are
13 readily available, the market value of those securities; and with
14 respect to other securities and assets, fair market value as
15 determined in good faith by the board of directors or trustees,
16 except that in the case of securities of majority-owned subsidiaries
17 that are investment companies, as defined in the Investment
18 Company Act of 1940, that fair value shall not exceed market
19 value or asset value, whichever is higher.

20 (c) An exempt-interest dividend shall be treated by recipients
21 thereof as an item of interest excludable from income.

22 (d) *In the case of a qualified fund of funds, as defined in Section*
23 *852(g)(2) of the Internal Revenue Code, relating to fund of funds,*
24 *that fund shall be qualified to pay tax-exempt dividends to its*
25 *shareholders without regard to whether that fund satisfies the*
26 *requirements of subdivision (a).*

27 (e) *The amendments made to this section by the act adding this*
28 *subdivision shall apply to taxable years beginning on or after*
29 *December 23, 2010.*

30 SEC. 3. Section 17280.1 is added to the Revenue and Taxation
31 Code, to read:

32 17280.1. (a) Section 267(f)(3) of the Internal Revenue Code,
33 relating to loss deferral rules not to apply in certain cases, as
34 amended by Section 306 of the Regulated Investment Company
35 Modernization Act of 2010 (Public Law 111-325), shall apply,
36 except as otherwise provided.

37 (b) This section shall apply to distributions made on or after
38 December 23, 2010.

39 SEC. 4. Section 17322.1 is added to the Revenue and Taxation
40 Code, to read:

1 17322.1. (a) Section 302 of the Internal Revenue Code, relating
2 to distributions in redemption of stock, as amended by Section 306
3 of the Regulated Investment Company Modernization Act of 2010
4 (Public Law 111-325), shall apply, except as otherwise provided.

5 (b) Section 316 of the Internal Revenue Code, relating to
6 dividend defined, as amended by Section 305 of the Regulated
7 Investment Company Modernization Act of 2010 (Public Law
8 111-325), shall apply, except as otherwise provided.

9 (c) (1) Subdivision (a) shall apply to distributions made on or
10 after December 23, 2010.

11 (2) Subdivision (b) shall apply to distributions made in taxable
12 years beginning on or after December 23, 2010.

13 SEC. 5. Section 18155 of the Revenue and Taxation Code is
14 amended to read:

15 18155. ~~No~~(a) A deduction shall not be allowed for capital
16 loss carrybacks provided by Section 1212 of the Internal Revenue
17 Code, relating to capital loss carrybacks and carryovers.

18 (b) Section 1212(a)(1)(C) of the Internal Revenue Code, as
19 amended by Section 101 of the Regulated Investment Company
20 Modernization Act of 2010 (Public Law 111-325), shall apply,
21 except as otherwise provided.

22 (c) Section 1212(a)(3) of the Internal Revenue Code, relating
23 to regulated investment companies, as amended by Section 101 of
24 the Regulated Investment Company Modernization Act of 2010
25 (Public Law 111-325), shall apply, except as otherwise provided.

26 (d) Section 1222(10) of the Internal Revenue Code, relating to
27 net capital loss, as amended by Section 101 of the Regulated
28 Investment Company Modernization Act of 2010 (Public Law
29 111-325), shall apply, except as otherwise provided.

30 (e) (1) Except as provided in paragraph (2), the amendments
31 made to this section by the act adding this paragraph shall apply
32 to net capital losses for taxable years beginning on or after
33 December 23, 2010.

34 (2) Section 1212(a)(3)(B) of the Internal Revenue Code, relating
35 to coordination with general rule, as added by Section 101 of the
36 Regulated Investment Company Modernization Act of 2010 (Public
37 Law 111-325), shall apply to taxable years beginning on or after
38 December 23, 2010.

39 SEC. 6. Section 24427 of the Revenue and Taxation Code is
40 amended to read:

1 24427. (a) Section 267 of the Internal Revenue Code, relating
2 to losses, expenses, and interest with respect to transactions
3 between related taxpayers, shall apply, except as otherwise
4 provided.

5 (b) *Section 267(f)(3) of the Internal Revenue Code, relating to*
6 *loss deferral rules not to apply in certain cases, as amended by*
7 *Section 306 of the Regulated Investment Company Modernization*
8 *Act of 2010 (Public Law 111-325), shall apply, except as otherwise*
9 *provided.*

10 (c) *The amendments made to this section by the act adding this*
11 *subdivision shall apply to distributions made on or after December*
12 *23, 2010.*

13 SEC. 7. *Section 24452.1 is added to the Revenue and Taxation*
14 *Code, to read:*

15 24452.1. (a) *Section 302 of the Internal Revenue Code, relating*
16 *to distributions in redemption of stock, as amended by Section 306*
17 *of the Regulated Investment Company Modernization Act of 2010*
18 *(Public Law 111-325), shall apply, except as otherwise provided.*

19 (b) *Section 316 of the Internal Revenue Code, relating to*
20 *dividend defined, as amended by Section 305 of the Regulated*
21 *Investment Company Modernization Act of 2010 (Public Law*
22 *111-325), shall apply, except as otherwise provided.*

23 (c) (1) *Subdivision (a) shall apply to distributions made on or*
24 *after December 23, 2010.*

25 (2) *Subdivision (b) shall apply to distributions made in taxable*
26 *years beginning on or after December 23, 2010.*

27 SEC. 8. *Section 24870 of the Revenue and Taxation Code is*
28 *amended to read:*

29 24870. (a) (1) *Subchapter M of Chapter 1 of Subtitle A of*
30 *the Internal Revenue Code, relating to regulated investment*
31 *companies; and real estate investment trusts, ~~real estate mortgage~~*
32 *investment conduits, and financial asset securitization investment*
33 *trusts, shall apply, except as otherwise provided in this part.*

34 (2) *Part 1 of Subchapter M of Chapter 1 of Subtitle A of the*
35 *Internal Revenue Code, relating to regulated investment*
36 *companies, as amended by the Regulated Investment Company*
37 *Modernization Act of 2010 (Public Law 111-325), shall apply,*
38 *except as otherwise provided.*

1 **(b) (1)** *Except as provided in paragraph (2), the amendments*
2 *made to this section by the act adding this paragraph shall apply*
3 *to taxable years beginning on or after December 23, 2010.*

4 **(2) (A)** *Section 851 of the Internal Revenue Code, relating to*
5 *definition of regulated investment company, as amended by Section*
6 *201 of the Regulated Investment Company Modernization Act of*
7 *2010 (Public Law 111-325), and Section 852(b)(2)(G) of the*
8 *Internal Revenue Code, as amended by Section 201 of the*
9 *Regulated Investment Company Modernization Act of 2010 (Public*
10 *Law 111-325), shall apply to taxable years with respect to which*
11 *the due date (determined with regard to any extensions) of the*
12 *return of tax for such taxable year is on or after December 23,*
13 *2010.*

14 **(B)** *Section 852(b)(4) of the Internal Revenue Code, relating to*
15 *loss on sale or exchange of stock held six months or less, as*
16 *amended by Section 309 of the Regulated Investment Company*
17 *Modernization Act of 2010 (Public Law 111-325), shall apply to*
18 *losses incurred on shares of stock for which the taxpayer's holding*
19 *period begins on or after December 23, 2010.*

20 **(C)** *Section 852(f)(1)(C) of the Internal Revenue Code, as*
21 *amended by Section 502 of the Regulated Investment Company*
22 *Modernization Act of 2010 (Public Law 111-325), shall apply to*
23 *charges incurred in taxable years beginning on or after December*
24 *23, 2010.*

25 **(D)** *Section 855(a) of the Internal Revenue Code, relating to*
26 *general rule, as amended by Section 304 of the Regulated*
27 *Investment Company Modernization Act of 2010 (Public Law*
28 *111-325), shall apply to distributions in taxable years beginning*
29 *on or after December 23, 2010.*

30 **SEC. 9.** *Section 24871 of the Revenue and Taxation Code is*
31 *amended to read:*

32 24871. (a) (1) *Section 852(b)(1) of the Internal Revenue Code,*
33 *relating to imposition of tax on regulated investment companies,*
34 *does not apply.*

35 **(2)** *Every regulated investment company shall be subject to the*
36 *taxes imposed under Chapter 2 (commencing with Section 23101)*
37 *and Chapter 3 (commencing with Section 23501), except that its*
38 *“net income” shall be equal to its “investment company income,”*
39 *as defined in subdivision (b).*

1 (3) (A) *Section 851(d)(2)(C)(i)(I) of the Internal Revenue Code*
2 *is modified by substituting “\$12,500” for “\$50,000.”*

3 (B) *Section 851(d)(2)(C)(i)(II) of the Internal Revenue Code is*
4 *modified by substituting the phrase “the rate of tax specified in*
5 *Section 23151” for the phrase “the highest rate of tax specified*
6 *in section 11” contained therein.*

7 (C) *Section 851(d)(2)(C)(iii) of the Internal Revenue Code,*
8 *relating to administrative provisions, is modified by substituting*
9 *the phrase “Article 3 of Part 10.2 (commencing with Section*
10 *19031), a tax imposed by this subparagraph shall be treated as a*
11 *tax with respect to which the deficiency procedures of such article*
12 *apply” for the phrase “subtitle F, a tax imposed by this*
13 *subparagraph shall be treated as an excise tax with respect to*
14 *which the deficiency procedures of such subtitle apply” contained*
15 *therein.*

16 (D) *Section 851(i)(2) of the Internal Revenue Code, relating to*
17 *imposition of tax on failures, shall not apply.*

18 (b) “Investment company income” means investment company
19 taxable income, as defined in Section 852(b)(2) of the Internal
20 Revenue Code, modified as follows:

21 (1) Section 852(b)(2)(A) of the Internal Revenue Code, relating
22 to an exclusion for net capital gain, does not apply.

23 (2) Section 852(b)(2)(B) of the Internal Revenue Code, relating
24 to net operating losses, is modified to deny the deduction allowed
25 under Sections 24416 and 24416.1, in lieu of denying the deduction
26 allowed by Section 172 of the Internal Revenue Code.

27 (3) In lieu of the provision of Section 852(b)(2)(C) of the
28 Internal Revenue Code, relating to special deductions for
29 corporations, no deduction shall be allowed under Sections 24402,
30 24406, 24410, and 25106.

31 (4) (A) The deduction for dividends paid, under Section
32 852(b)(2)(D) of the Internal Revenue Code, is modified to allow
33 capital gain dividends and exempt interest dividends (to the extent
34 that interest is included in gross income under this part) to be
35 included in the computation of the deduction.

36 (B) *For purposes of this paragraph, Section 562(c) of the*
37 *Internal Revenue Code, relating to preferential dividends, as*
38 *amended by Section 307 of the Regulated Investment Company*
39 *Modernization Act of 2010 (Public Law 111-325), shall apply.*

(c) Section 852(b)(3)(A) of the Internal Revenue Code, relating to capital gains, does not apply.

(d) (1) *Section 852(b)(5) of the Internal Revenue Code, relating to exempt-interest dividends, is modified by substituting the phrase “that, when held by an individual, the interest therefrom is exempt from taxation by this state” for the phrase “described in section 103(a)” contained therein.*

(2) *Section 852(b)(5)(A)(iv)(V) of the Internal Revenue Code, relating to exempt interest, is modified by substituting the phrase “on obligations that, if held by an individual, is exempt from taxation by this state, over the amounts disallowed as deductions under subdivision (b) of Section 24360 or Section 24425” for the phrase “excludable from gross income under section 103(a) over the amounts disallowed as deductions under sections 265 and 171(a)(2)” contained therein.*

~~(d)~~
(3) Section 852(b)(5)(B) of the Internal Revenue Code, relating to treatment of ~~exempt-interest~~ *exempt-interest* dividends by shareholders, does not apply.

(e) Section 854 of the Internal Revenue Code, relating to limitations applicable to dividends received from regulated investment companies, is modified to refer to Sections 24402, 24406, 24410, and 25106, in lieu of Section 243 of the Internal Revenue Code.

(f) *Section 852(g)(1)(A) of the Internal Revenue Code is modified by substituting the phrase “subdivision (a) of Section 17145” for the phrase “the first sentence of subsection (b)(5)” contained therein.*

(g) (1) *Except as provided in paragraphs (2) and (3), the amendments made to this section by the act adding this subdivision shall apply to taxable years with respect to which the due date (determined with regard to any extensions) of the return of tax for such taxable year is on or after December 23, 2010.*

(2) *Subparagraph (B) of paragraph (4) of subdivision (b) shall apply to distributions in taxable years beginning on or after December 23, 2010.*

(3) *Subdivision (f) shall apply to taxable years beginning on or after December 23, 2010.*

SEC. 10. *Section 24871.1 is added to the Revenue and Taxation Code, to read:*

1 24871.1. (a) Section 860(f)(2)(B) of the Internal Revenue Code,
2 as amended by Section 301 of the Regulated Investment Company
3 Modernization Act of 2010 (Public Law 111-325), shall apply,
4 except as otherwise provided.

5 (b) This section shall apply to taxable years beginning on or
6 after December 23, 2010.

7 SEC. 11. Section 24990.5 of the Revenue and Taxation Code
8 is amended to read:

9 24990.5. (a) Section 1201 of the Internal Revenue Code,
10 relating to alternative tax for corporations, shall not be applicable.

11 (b) The provisions of Section 1212 of the Internal Revenue
12 Code, relating to capital loss carrybacks and carryovers, ~~are~~
13 ~~modified as follows:~~ as amended by Section 101 of the Regulated
14 Investment Company Modernization Act of 2010 (Public Law
15 111-325), shall apply, except as otherwise provided.

16 (1) Section 1212(a)(1)(A) of the Internal Revenue Code, relating
17 to capital loss carrybacks, shall not apply.

18 (2) ~~Section 1212(a)(3)~~ 1212(a)(4) of the Internal Revenue Code,
19 relating to special rules on carrybacks, shall not apply.

20 (3) Sections 1212(b) and 1212(c) of the Internal Revenue Code,
21 relating to ~~taxpayers other than a corporation~~ other taxpayers and
22 carryback of losses from Section 1256 contracts to offset prior
23 gains from such contracts, respectively, shall not apply.

24 (c) Section 1222(10) of the Internal Revenue Code, relating to
25 net capital loss, as amended by Section 101 of the Regulated
26 Investment Company Modernization Act of 2010 (Public Law
27 111-325), shall apply, except as otherwise provided.

28 (d) (1) Except as provided in paragraph (2), the amendments
29 made to this section by the act adding this paragraph shall apply
30 to net capital losses for taxable years beginning on or after
31 December 23, 2010.

32 (2) Section 1212(a)(3)(B) of the Internal Revenue Code, relating
33 to coordination with general rule, as added by Section 101 of the
34 Regulated Investment Company Modernization Act of 2010 (Public
35 Law 111-325), shall apply to taxable years beginning on or after
36 December 23, 2010.

37 SEC. 12. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the Constitution and shall go into
40 immediate effect. The facts constituting the necessity are:

1 *Given the enactment of the federal Regulated Investment*
2 *Company Modernization Act on December 22, 2010, which has*
3 *already changed the tax rules pertaining to mutual funds and their*
4 *shareholders for federal tax purposes, in order to avoid having*
5 *two materially different federal and California tax rules governing*
6 *the same investment and same income, and to eliminate uncertainty*
7 *and confusion regarding the taxation of earnings and profits of*
8 *Regulated Investment Companies and of the distributions to the*
9 *some 6 million California shareholders, and thereby minimize*
10 *unnecessary and costly administrative burdens that adversely*
11 *impact the Franchise Tax Board, it is necessary for this act to take*
12 *effect immediately.*

13 ~~SECTION 1. Section 6353 of the Revenue and Taxation Code~~
14 ~~is amended to read:~~

15 ~~6353. There are exempted from the taxes imposed by this part~~
16 ~~the gross receipts derived from the sales, furnishing, or service of~~
17 ~~and the storage, use, or other consumption in this state of, all of~~
18 ~~the following:~~

19 ~~(a) Gas, electricity, and water, including steam and geothermal~~
20 ~~steam, brines, and heat, when delivered to consumers through~~
21 ~~mains, lines, or pipes.~~

22 ~~(b) (1) Liquefied petroleum gas, delivered to a qualified~~
23 ~~residence by the seller, that is sold for household use in the~~
24 ~~qualified residence, or liquefied petroleum gas that is purchased~~
25 ~~for use by a qualified person to be used in producing and harvesting~~
26 ~~agricultural products; provided, in either case, the liquefied~~
27 ~~petroleum gas is delivered into a tank with a storage capacity for~~
28 ~~liquefied petroleum gas that is equal to or greater than 30 gallons.~~
29 ~~This subdivision may not be construed to provide any exemption~~
30 ~~from any tax levied by a city, county, or city and county pursuant~~
31 ~~to Section 7284.3, or any successor to that section.~~

32 ~~(2) For purposes of this subdivision:~~

33 ~~(A) "Qualified residence" means a primary residence, not~~
34 ~~served by gas mains and pipes.~~

35 ~~(B) "Qualified person" means any person engaged in a line of~~
36 ~~business described in Codes 0111 to 0291, inclusive, of the~~
37 ~~Standard Industrial Classification Manual published by the United~~
38 ~~States Office of Management and Budget, 1987 Edition, and any~~
39 ~~other person that assists that person in the lines of business~~

described in this paragraph in producing and harvesting agricultural products:

(c) ~~Water, when sold to an individual in bulk quantities of 50 gallons or more, for general household use in his or her residence if the residence is located in an area not serviced by mains, lines or pipes.~~

(d) ~~Exhaust steam, waste steam, heat, or resultant energy, produced in connection with cogeneration technology, as defined in Section 25134 of the Public Resources Code.~~

(e) ~~The exemptions provided by subdivision (b) shall be effective starting September 1, 2001.~~

~~SEC. 2. Section 6356.5 of the Revenue and Taxation Code is amended to read:~~

~~6356.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, farm equipment and machinery, and the parts thereof, purchased for use by a qualified person to be used primarily in producing and harvesting agricultural products.~~

~~(b) For purposes of this section, both of the following shall apply:~~

~~(1) "Qualified person" means any person engaged in a line of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 Edition, and any other person that uses farm equipment and machinery to assist this person in the lines of business described in this paragraph in producing and harvesting agricultural products.~~

~~(2) "Farm equipment and machinery" means implements of husbandry, as defined in Section 411.~~

~~(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.~~

~~(2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied~~

1 pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35
2 of Article XIII of the California Constitution.

3 ~~(d) The exemption provided by this section shall be effective~~
4 ~~starting September 1, 2001.~~

5 SEC. 3. ~~Section 6356.6 of the Revenue and Taxation Code is~~
6 ~~amended to read:~~

7 ~~6356.6. (a) There are exempted from the taxes imposed by~~
8 ~~this part the gross receipts from the sale of, and the storage and~~
9 ~~use of, or other consumption in this state of, equipment and~~
10 ~~machinery designed primarily for off-road use in commercial~~
11 ~~timber harvesting operations, and the parts thereof, that is~~
12 ~~purchased for use by a qualified person to be used primarily in~~
13 ~~harvesting timber.~~

14 ~~(b) The State Board of Equalization may adopt emergency~~
15 ~~regulations to specify equipment and machinery exempted by this~~
16 ~~section, and may revise those regulations from time to time.~~

17 ~~(c) For purposes of this section, “qualified person” means any~~
18 ~~person engaged in commercial timber harvesting.~~

19 ~~(d) (1) Notwithstanding any provision of the Bradley-Burns~~
20 ~~Uniform Local Sales and Use Tax Law (Part 1.5 (commencing~~
21 ~~with Section 7200)) or the Transactions and Use Tax Law (Part~~
22 ~~1.6 (commencing with Section 7251)), the exemption established~~
23 ~~by this section does not apply with respect to any tax levied by a~~
24 ~~county, city, or district pursuant to, or in accordance with, either~~
25 ~~of those laws.~~

26 ~~(2) Notwithstanding subdivision (a), the exemption established~~
27 ~~by this section does not apply with respect to any tax levied~~
28 ~~pursuant to Section 6051.2 and 6201.2, or pursuant to Section 35~~
29 ~~of Article XIII of the California Constitution.~~

30 ~~(e) The exemption provided by this section shall be effective~~
31 ~~starting September 1, 2001.~~

32 SEC. 4. ~~Section 6358.5 of the Revenue and Taxation Code is~~
33 ~~amended to read:~~

34 ~~6358.5. (a) (1) There are exempted from the taxes imposed~~
35 ~~by this part, the gross receipts from the sale in this state of, and~~
36 ~~the storage, use, or other consumption in this state of, any racehorse~~
37 ~~breeding stock.~~

38 ~~(2) For purposes of this section “racehorse breeding stock”~~
39 ~~means a horse that is capable of reproduction and for which the~~

1 purchaser states that it is the purchaser's sole intent to use the horse
2 for breeding purposes.
3 ~~(b) (1) Notwithstanding any provision of the Bradley-Burns~~
4 ~~Uniform Local Sales and Use Tax Law (Part 1.5 (commencing~~
5 ~~with Section 7200)) or the Transactions and Use Tax Law (Part~~
6 ~~1.6 (commencing with Section 7251)), the exemption established~~
7 ~~by this section does not apply with respect to any tax levied by a~~
8 ~~county, city, or district pursuant to, or in accordance with, either~~
9 ~~of those laws.~~
10 ~~(2) The exemption established by this section does not apply~~
11 ~~with respect to any tax levied pursuant to either Section 6051.2 or~~
12 ~~6201.2, or pursuant to Section 35 of Article XIII of the California~~
13 ~~Constitution.~~
14 ~~(c) The exemption provided by this section shall be effective~~
15 ~~starting September 1, 2001.~~